

applications must be filed and coordinated with Canada. This situation must be corrected.

100. The Commenters recognize that changes in this situation will require the participation of the Treaty Branch in order to revise the agreed upon coordination standards. The purpose of raising the point is to emphasize the importance of this issue. It is simply intolerable to have extremely minor system changes subject to the costs and delays associated with major change applications. There must be some technical standard that the Canadian government will accept as indicative of a sufficiently minor system change to be deemed permissible without further coordination.

V. COMMENTS ON DRAFT RULES

101. In addition to the foregoing comments on the major rule changes, the Commenters offer the following specific editorial comments on the draft rules themselves. Comments in this section are organized chronologically by rule number.

102. Index - A review of the index indicates that the Commission has taken the laudable approach of skipping periodic rule numbers so that future rule changes can be implemented and inserted at places in the rules without destroying the logical consistency. Generally this has been accomplished by using odd numbered rules and leaving even numbered rules for future changes. However, Subpart B entitled "Application Requirements and Procedures" does not follow this pattern. For reasons that

are not readily apparent, there are a large number of even numbered rule sections in Subpart B, resulting in blocks of multiple sequential numbers where no spaces have been left for future insertions. The Commenters recommend that the Commission reformulate this Subsection of the rules to skip numbers as is done in other subparts. This is particularly important since the rules governing application requirements and procedures are likely to change over time thereby necessitating additional numbers.

103. Section 22.3(a) Authorization Required - The Commenters recommend that the word "legal" be added to the second sentence of this rule section thereby indicating that applicants must be qualified in regard to "citizenship, character, financial, technical, legal and other criteria".

104. Section 22.5 Citizenship - In view of the Commission's consistent rulings respecting the applicability of the alien ownership provisions to partnerships, Section 22.5(b) of the proposed rules should be amended to add a subsection indicating that the Commission will not grant an authorization in the Public Mobile Services to any partnership which has an alien general partner or to any limited partnership in which an alien limited partner is not adequately insulated from participation in the management or control of the entity.

105. Section 22.7 General Eligibility - The proposed rule section provides that applications will be granted only if "there are sufficient channel assignments available to enable the

applicant to render a satisfactory service". This appears to introduce a new legal standard not reflected in existing rules or case law. The Commenters are concerned that the uncertainty of the phrase "a satisfactory service" will engender litigation. Generally, the Commission should allow the marketplace to determine whether a service is satisfactory, rather than adopting a rule that will call for such determinations by the regulatory agency.

106. Section 22.99 Definitions - The Commenters generally recommend that defined terms in the rules be capitalized throughout the rule sections. This technique, which is commonly used in legal documents, will allow those reading the rules to know that a particular capitalized term is a defined term, and also will enable the Commission to utilize some words in other than their formerly defined sense.

107. In addition to the foregoing general comment, commenters have the following specific suggestions with respect to particular definitions:

108. **"Air-Ground Radio Telephone Service"** This definition should be expanded to make it clear that it encompasses both the general aviation and commercial aviation air-ground services.

109. **"Assignment of Authorization"** In light of the legal distinction between assignments and transfers of authorizations, this definition of assignment is confusing since it twice uses the word "transfer" in the definition. The word

"conveyance" should be substituted for the word "transfer" in this definition.

110. **"Authorization"** This definition is limited to a "written" instrument to "operate" a station. On occasion, the Commission gives oral authority, a fact which should be reflected in the definition. Also, an authorization conveys authority to "construct" a station, and the definition should reflect this fact.

111. **"Cellular Radio Telephone Service", "Cellular Service" and "Cellular System"** The definition of "cellular system" is inadequate as it fails to distinguish cellular service from other Personal Communications Services presently under consideration by the Commission. See Personal Communications Services, (GEN Docket No. 90-314), FCC 92-335, released August 14, 1992 at paras. 29-30. A cellular system should be defined as one operating on the specific frequencies allocated for cellular service. This would eliminate the confusion.

112. **"Channel Block"** This term also could be defined to include the groups of channels assigned in the commercial aviation service and the 470-512 MHz trunked services.

113. **"Dead Spots"** The definition refers to a "protected" service area. In this context, the word "protected" appears redundant since all service areas, as defined in the rules, would appear to be protected.

114. **"Fill-In Transmitters"** It is inherently confusing to have the single phrase "fill-in transmitters" have different

meanings in the Cellular Radio Telephone Service and the Paging and Radiotelephone service. The Commenters recommend coining a different phrase to apply to the cellular services. For example, since cellular operators can expand the coverage of their systems during the initial 5-year license period, proposals to do so could be called "build-out transmitters" rather than "fill-in transmitters".

115. **"Ground Station"** The definition should be expanded to indicate that a stationary transmitter could provide service to both airborne mobile stations "and airborne pagers".

116. **"Pager"** The traditional definition of a pager has been expanded to include a unit that may "transmit a radio signal acknowledging that a message has been received". Rather than redefining the term "pager" to include additional capabilities which are now being offered, the Commenters recommend that a new term "messaging unit" be defined which would encompass a radio receiver that also has acknowledgement and/or unit location signalling capabilities.

117. **"Paging and Radiotelephone Service"** The term "Radiotelephone" is broadly defined to include any transmission of sound from one place to another by means of radio. This definition is certainly broad enough to encompass cellular service. However, throughout the proposed rules, the phrase "Paging and Radiotelephone service" apparently is intended to exclude cellular. This should be corrected either by defining a new term "traditional radiotelephone service" (i.e. non-cellular

radio telephone service) or by defining Paging and Radiotelephone Service to exclude cellular service.

118. **"Radio Telecommunication Services"** This definition should be expanded to include a reference to paging service.

119. **"Rural Radiotelephone Service"** The definition refers to areas where it is "not feasible" to provide communications by wire. This definition is too narrow. Rural service may be provided where service by wire is "impractical".

120. **"Telecommunications Common Carrier"** As drafted, this definition would appear to be broad enough to describe private carrier paging ("PCP") and specialized mobile radio ("SMR") operations, which are not common carrier services.

121. **"Transfer of Control"** The proposed definition is too narrow. The definition should be expanded to read "a transaction or a series of transactions by which 50% or more of the interests in a Public Mobile Services licensee are conveyed, directly or indirectly, from one party or group of parties to another."

122. The Commenters also recommend that the Commission consider adding definitions for the following terms which appear throughout the rules: **"Commercial Aviation Service"**, **"De Minimis Extension"**, **"General Air-Ground Service"** and **"Pro Forma Assignment or Transfer"**.

123. Section 22.101 Station Files - The first sentence of this rule section should be modified to indicate that the data

relating to each station "~~shall be~~" maintained "by the Commission" in individual station files. Otherwise, this section could be misconstrued to refer to files maintained by the carrier.

124. Section 22.103 Representations - This rule section admonishes parties not to make "misrepresentations". Commission case law and precedent draws a definitional distinction between "misrepresentations" and "concealments", both of which are impermissible. Section 22.103 should be expanded to make it clear that applicants and licensees also must not conceal material facts from the Commission.

125. Section 22.105(e) Paper Original Required If the Commission is going to require each paper original to be stamped "Original" on the top page, it should indicate that such stamp should be in "other than black ink". This will avoid confusion if and when a xerox copy is made of the stamped original.

126. Section 22.105(g) Magnetic Disks - The rule refers to applicants submitting magnetic disks "in lieu of the microfiche". Unless and until the Commission has the equipment ready and available to enable interested parties to access and copy information on magnetic disks, this cannot be a substitute for submitting microfiche.

127. Also, the Commission does not specify a file format or database structure to be used for magnetic disks. From the way it is described, the Commenters infer that the Commission envisions a dBase type format. The Commenters suggest that (i)

the Commission define the transfer file format to be used (probably ASCII flat database files), (ii) the Commission utilize "" as the field delimiter (dBase convention), (iii) the Commission mandate a file naming convention to minimize problems in transferring information from disk to the Commission's computers, (iv) the Commission require magnetic disks to be checked for all known computer virus prior to submission to the Commission, and (v) the database file not include mnemonics for each field, but rather require all information to be placed sequentially in the file. The Commenters further believe that no graphic information files should be required as part of the filing, except tower diagrams, where required. For example, applicants should not be required to submit signatures in graphic form because (i) it takes up too much disk space, and (ii) it unnecessarily requires additional work on the applicants' part (without the signature requirement, most applications can be directly moved from the application program to disk without the need of a page scanner).

128. Ultimately, the Commission should provide an incentive for applicants to submit magnetic disks by reducing filing fees for applicants submitting applications in magnetic form. The Commission's staff time will be reduced significantly by allowing magnetic disk transfers, and that savings should be reflected in the fees charged to applicants using magnetic disks. In addition, reduced fees would incent applicants to submit applications in magnetic disk form.

129. Finally, the Commission should establish a telephone application system by which applicants could submit applications by modem. The Commission system would notify the filing party of the acceptance of the application, the file number and the date the application will appear on public notice. Such a system would reduce even further the burden of applications on the Commission and would lead to quicker application processing.

130. Section 22.106(f) Correspondence - The phrase ", if any." should be added to the end of the first sentence of this rule section to cover instances in which applicants are corresponding with the Commission with respect to a filing which has not been assigned a file number.

131. Section 22.107 General Application Requirements - The introductory sentence should be expanded to refer to authorizations or approval of assignments "or transfers" of authorizations. Also, subsection (e) should be amended to eliminate the phrase "to remain substantially accurate and complete in all significant respects,". This phrase does not fully and accurately reflect the strictures of Section 1.65 of the Commission's rules and could be misconstrued as limiting language.

132. Section 22.106 Parties to Applications - This definition needs to be modified in several respects. The definition of subsidiary should be expanded to include any business for which the applicant or any officer, director,

stockholder, "partner" or key manager of the applicant owns 5% or more of the stock, warrants, options, debt securities "or partnership interests". The requirement that the list include a description of each subsidiary's "principal business" appears to have no useful purpose. Subsection (c) refers to any "person" holding 5% or more of each class of stock, warrants, options or debt securities of the applicant. This subsection should be expanded to make it clear that the phrase "person" refers to both natural and unnatural persons (i.e. corporations, associations, partnerships, etc.). Also, it should be made clear that this subsection covers partnership interests as well as stock interests.

133. Section 22.115(a)(2) Antenna Structure Drawing - This section is ambiguous with respect to the definition of "existing structure". Existing structure could mean only those structures with an Antenna Survey Branch ("ASB") number (which is what the Commenters suspect the staff will interpret it to mean), or it could include all existing structures, regardless of whether they have an ASB number. The Commission should clarify that "existing structure" does not mean only those structures that have ASB numbers, but rather includes those with ASB numbers and those structures which are in existence prior to the application.

134. Section 22.115(a)(3) FAA Notification - This rule section provides that "if available, a copy of the FAA determination should be included in the application". This

requirement could lead to litigation as to whether an application failing to include such a determination is in compliance with the Commission's rules. A finding as to whether such a determination was "available" would be difficult to make.

135. Section 22.115(a)(4) Antenna Locations - The Commenters foresee problems with the FAA using a different coordinate system than the Commission. If the FAA is going to use a different coordinate system, the Commission should adopt it as well. Otherwise, the licensee may be faced with having to put two different sets of coordinates for the site -- one which is used in the documentation to the FAA, and the other in the Commission documentation. And, the Commission staff may have some difficulty relating the FAA clearance certificate with the ASB coordinates. The Commenters understand that there are algorithms which could be used to automatically covert the coordinates in the existing ASB database to the FAA system.

136. Section 22.120 Initial Procedures - Subsection (a) of this rule makes it clear that the assignment of a file number does not preclude the return or the dismissal of an application. As a result, the subsequent references to "tentative" acceptance for filing of an application are unnecessary.

137. Section 22.120 (d) Public Notice; Tentative Acceptance for Filing - It is unclear from this section whether the Commission plans to alter its current practice of issuing a consolidated set of radio common carrier notices in the middle of

every week. An alteration of the longstanding practice by which weekly public notices are released on the same day each week would not serve the public interest. Licensees now know when to expect the public notices so they can establish effective procedures enabling them to be notified of any recent application and license activity on their channel(s). If the public notice procedures were changed, licensees could miss relevant information which might lead to additional controversies with the Commission.

138. Section 22.123 Classification of Filings as Major or Minor - This proposed rule section should be modified in several respects. Subsection 22.123(e)(1)(ii)(A) indicates that the "change" in "a requested channel" is major in the Paging and Radiotelephone service. This should not be the case for paging channels in the 931-932 MHz band, and the rule should so indicate. Also, subsection 22.123(e)(2)(i)(A) provides that the establishment of a new cellular geographic service area constitutes a major filing in the cellular radio telephone service. However, this would not appear to be the case during the initial 5-year fill-in period. Finally, an additional "major" filing should be added to the cellular radio telephone section. In accordance with Commission case law, any amendment to a pending application which cures an otherwise fatal application defect has been defined by the Commission as "major" in the cellular services. See, e.g., Continental Cellular, 6 FCC Rcd 6834, 6835 (1991). Also, Subsections 22.123(e)(1)(i)(B) &

(C) & 22.123 (e)(1)(ii)(B) & (C) do not permit any minor extensions of the contours into new areas for the station. This section should be modified to reflect the current Section 22.23(c)(2) which allows licensees greater freedom than the proposed section. The Commission should also adopt a minor distance variance rule for all transmitters which would permit relocation of a base station on any paging frequency within 2 kilometers without being considered a major modification requiring the filing of a FCC Form 401.

139. Section 22.124 Notification Processing -

Subsection (b)(5) of this section suggests that a notification is "unacceptable" if it is "untimely filed". While the late filing of a notification may give rise to grounds for a forfeiture, such notifications need not in all cases be deemed unacceptable. These rules should, therefore, be modified.

140. Section 22.125 Special Temporary Authorizations -

Subsection (a)(2) limits the period of an STA granted pending the filing of an application for regular authorization to "60 days or less". However, it is not always possible for the Commission to process an application for permanent authority in a 60-day period. This can lead to periodic requests to renew or extend the STA pending such regular authorization. To avoid this series of filings, the initial STA should be valid for up to 180 days provided that an application for regular authorization is filed within 30 (or 60) days.

141. Section 22.127 Public Notices - Subsection (b) indicates that the Commission will release a public notice announcing staff actions on "pending applications previously listed as accepted for filing". In addition, the Commission gives public notice of pro-forma assignment and transfer applications that were not previously listed. This fact should be referenced. Subsection (c) indicates that informative listings "do not create any rights to file oppositions or other pleadings". This is not an accurate statement. Often, the Commission makes an informative listing of a waiver request, a declaratory ruling request or the termination of an authorization which does indeed create rights in other parties. The last sentence should be deleted.

142. Section 22.128 Dismissal of Applications - This rule occasionally refers to applications being "dismissed", occasionally refers to applications being "returned" and occasionally refers to applications being "returned or dismissed". It is unclear if these are intended to be synonyms. The Commenters recommend that the phrase "returned or dismissed" be used in all instances. Subsection (b) of this rule enables the Commission to dismiss applications for failure to prosecute or for failure to respond "substantially" within a specified time period to official correspondence or requests for additional information. It is unclear what the term "substantially" is intended to mean in this context. It is also unclear whether oral requests for information qualify. Due to difficulties of

proof, the Commenters recommend that dismissals for failure to prosecute only follow written requests for information. This will avoid disputes. Subsection (c)(1) enables the Commission to dismiss an application without prejudice if it is "incomplete" with respect to required information. The Commenters recommend the phrase be changed to "materially incomplete".

143. Section 22.129 Agreements to Dismiss

Applications, Amendments or Petitions to Deny - The requirement that the Commission approve any settlement may actually delay settlements unless the Commission approval is timely. This section should require that any disapproval from the Commission be given within 30 days after submission. If disapproval is not given in 30 days, then the parties should be allowed to proceed as if the Commission approved the settlement. Also, if a party dismisses an application or protest unilaterally without receiving consideration, no Commission approval should be required.

144. Section 22.130 Petitions to Deny - Subsection (c)

of this rule permits the Commission by letter to dismiss a defective petition to deny. The rule section should be amended to make it clear that the Commission must state the reasons for the dismissal so that the nature of the defect will be known.

145. Section 22.131 Mutually Exclusive Applications -

This rule section should be expanded to include a subsection (c) outlining procedures for garnering the severance into separate applications of any filing which becomes partially mutually

exclusive with another application. The Mobile Services Division has long had procedures to effect such severances, but they have never been properly reflected in the rules.

146. Section 22.132 Grants of Applications -

Subsection (c) of this rule continues the prior requirement that the recipient of a partial grant must reject the partial grant and return the instrument of authorization as a condition to seeking reconsideration thereof. The Commission should reevaluate this rule. Parties should be able to commence construction of the partially or conditionally granted facilities while seeking reconsideration of the denied portion of the application, provided that it is understood that the applicant proceeds in this manner at its own risk that the granted portion of the application may, ultimately, be rescinded.

147. Section 22.135 Settlement Conference - One

specific topic of discussion at a settlement conference should be the possible use of the Commission's Alternative Dispute Resolution procedures as a mechanism for resolving a dispute.

See Use of Alternative Dispute Resolution Procedures in Commission Proceedings, 6 FCC Rcd 5669 (1991). Also, subsection (c) of this rule should be amended to insert the phrase "without good cause" after the word "attorney" thereby making it clear that a justifiable absence will not result in the dismissal of an application.

148. Section 22.137 Assignment/Transfer Applications -

This rule section must be modified in several respects. First,

the word "corporate" should be removed from the introductory section since this rule section applies to licensees doing business in other than the corporate form. Second, subsections (b) and (c)(2) must be clarified. These contain references indicating that assignments must be completed "within 60 days of FCC approval". It is not clear, however, what date the phrase "FCC approval" refers to (i.e. the grant date, the public notice date, or the date on the authorization). Also, there would appear to be no reason for the consummation period to be so short, since the Commission routinely extends closing deadlines when additional time is needed. The Commenters recommend that the consummation date be pegged at 1 year following the public notice of the grant of the assignment or transfer application. This provides a date certain, and offers additional time so that extensions of the consummation date will not be required. Third, subsections (b) and (c)(2) refer to authorizations "reverting" to the assignor. It should be specifically indicated that this reversion is automatic and does not require any further action by the Commission. It also appears that the "reversion" concept would apply not only to assignors but also to transferors, and the language should be amended accordingly. Fourth, subsection (c)(1) respecting partial assignments, indicates that certain forms (e.g., Form 489 or Form 401) must be filed "in addition to the forms required by paragraph (a) of this section. This would appear to be a substantive rule change in which a FCC Form 490 is required in support of a partial assignment application. The

Commenters do not object to this change, but wish to confirm that this is indeed the Commission's intention. Finally, in several subsections, the text of the rule refers only to the "assignment" of the authorization, and not to a transfer of control. See, e.g., subsection (d). It appears that this rule section should be expanded to include transfers of control.

149. Section 22.139 Trafficking - The rule section should be expanded to make clear that, in the case of lottery applications, the facts that a large number of applications are filed, that delays occur in the processing of applications, and that the applicant receives a grant only in isolated territory, are all "foreseeable" and will not be deemed changed circumstances for the purposes of prematurely transferring an authorization.

150. Section 22.142(d) Automatic Extension for Relocation - This rule section is confusing. On the one hand, it refers to construction periods being "automatically extended". On the other hand, the text of the rule suggests that the extension only applies for good cause shown. The Commenters are concerned that this rule will be cause for litigation since it appears to pin the extension on the reason for the relocation.

151. Section 22.143(a) Construction Prior to Grant of Application (General) - The Commission's continued use of 90 days as the period for which an applicant must wait before preconstructing a new facility is too long considering the other

changes to the rules being proposed by the Commission. The time period in which an applicant must wait should be reduced.

152. Section 22.144 Termination of Authorizations - In view of the confusion that has existed under prior Commission rulings, this rule section should be amended to make it absolutely clear that applicants can file for authorizations that have been "terminated" without awaiting any specific Commission action or public notice thereof.

153. Section 22.145 Renewal Application Procedures - The Commenters support the Commission's efforts to simplify the renewal rules. The form used to renew licenses should also be revised to require an applicant to list only the call signs being renewed, and not require all the other information currently required (such as the sites not listed on the license, etc.). The current method of doing renewals consumes vast amounts of resources and it is not clear that the Commission has or will have the personnel resources to process all the information which now is required.

154. Section 22.163 Minor Modifications to Existing Stations - This proposed rule section needs to be revised in several respects. First, for organizational purposes, it would make sense to move this rule section near Section 22.123 which defines the classifications of applications and amendments as major or minor. Second, the introductory language to this rule section should make it clear that licensees may make the listed modifications to existing stations without "notification to the

Commission or" obtaining prior Commission approval. Finally, subsection (d) of this section requires that licensees supply administrative or technical information to the Commission upon request. This provision should be modified to insert the phrase "or to co-channel licensees" after the word Commission. This will create an obligation for licensees to cooperate with adjoining carriers by providing technical information with respect to modified facilities upon request.

155. Section 22.165 Additional Transmitters for Existing Stations - Here, too, the introductory language should indicate that licensees may operate additional transmitters without obtaining prior Commission approval and "without notification to the Commission". Also, the title of this section should be changed to indicate that it applies to both additional and modified transmitters for existing stations.

156. Section 22.167 Applications for Assigned But Unused Channels - A new subsection (d) should be added to this rule in order to make it clear that the monitoring of station transmissions and the disclosure of the results of such monitoring to the Commission is permissible provided that the monitoring is limited to the purpose of establishing the applicability of a finders preference. Persons monitoring under these limited circumstances would be acting as "agents" of the Commission in the enforcement of Chapter 5 of Title VII of the United States Code and should, therefore, be allowed to do so.

157. Section 22.303 Posting Station Authorizations -

This rule section should be changed in several respects. First, the title of the rule refers to "posting" station authorizations. This is a misnomer since most licensees retain copies of their licenses in files, rather than posting them at station control points. The term "posting" should be removed from the rule. Second, the rule should not only require the retention of the current authorization, but also complete information respecting any modifications of facilities which have been effected without notice to or the prior consent of the Commission. Also, any requests to the Commission for corrections of outstanding authorizations should be retained. Third, licensees who wish to retain authorization information at a central location should be allowed to do so, provided that the central location is easily discernible from information available at each regularly attended control point of the station. Finally, since the new rules will allow more transmitters to be operated at locations not reflected in outstanding authorizations, licensees should be required to mark every transmitter with information clearly identifying the licensee, contact information, the frequency and the ERP of the facility.

158. Section 22.313 Station Identification - The

requirement that a licensee identify its station every 30 minutes (even during the busy hour) should be relaxed. Such identifications consume a significant amount of airtime during the busy hour. (It takes approximately 5-10 seconds to ID every

30 minutes. This is a lost capacity of approximately 1/2 of 1 percent, or about 300 digital display pages at 2400 baud not delivered during the busy hour).^{37/} As an alternative to the current 30 minute identification requirement, the Commission should permit licensees to identify once every hour within 5 minutes of the top of the hour. This has several benefits. First, this alternative would allow licensees to transmit all the traffic laced on the system during the busy hour. Second, if an interference problem exists, this alternative saves licensees considerable time in trying to resolve the problem because the licensee does not need to listen for 30 minutes for the offending station to identify. The engineer will know that he can listen to the station for only ten minutes around the top of the hour.

159. Section 22.323 Incidental Communications Services

This rule section should be amended in two respects. First, subsection (a) should be deleted. It is virtually impossible for the Commission or any interested party to determine the effect of the provision of incidental service on the cost and charges to subscribers of the originally authorized service. The Commission should defer to the marketplace and the discretion of licensees to determine whether the provision of incidental services is beneficial to subscribers. Additionally, the Commission should revise subsection (c) which in its present form is circular in nature. Almost by definition, any "incidental" communications

^{37/} This equates to approximately 1500 subscribers at a .2 call rate.

service will differ from primary services contemplated by the rules, and be in some manner inconsistent with the Commission's rules and policies. It would seem that the Commission's primary interest is to avoid incidental services which present a prospect of harmful interference to other service providers or customers. Subsection (c) of this rule should be modified to indicate that these are the types of incidental communications services that are not allowed.

160. Section 22.325 Control Points - The Commission has adopted a new term "on duty". Currently, radio common carriers do not generally have technicians on duty all night. Rather, because of the sophisticated automation and alarm capabilities of today's equipment, they have technicians "on call," so that when a problem develops, the on call technician is called. If Part 22 licensees were forced to have technicians on duty all night it would impose significant costs. Furthermore, it is not clear that having a technician on duty would serve the public interest because on call technicians can usually respond within 1 hour. The Commission should substitute the words "on call" for the words "on duty."

161. Section 22.351 Channel Assignment Policy - This rule section provides that each channel or channel block is to be assigned "exclusively to one carrier" except as otherwise provided in this part. However, another exception may arise by the mutual consent of participating carriers (e.g., a guardband sharing agreement). The text of the rule section should be

modified to insert the phrase "or by agreement between participating carriers" after the phrase "except as otherwise provided in this part."

162. Section 22.361 Standby Facilities - The phrase "without further authority of the Commission" should be inserted after the word "may" and before the word "install" in this rule section, thereby making it clear that standby facilities may be implemented without Commission action.

163. Section 507(b) Number of Transmitters Per Station - The Commenters applaud the Commission's efforts to allow licensees to consolidate multiple call signs into one call sign. The Commission, however, is silent on how mechanically a licensee requests consolidation. The Commission should use its FCC Form 489 form for consolidation of call signs.

164. Section 22.511 Construction Period for the Paging and Radiotelephone Service - This rule section should be revised to provide a mechanism for the construction period to be extended whenever the release of a public notice of the grant of an application post-dates the grant date by 30 days or more. In this circumstance, the holder of the authorization should be accorded a period of one year from the public notice date to complete construction. The following sentence should be added to the rule:

Upon written request of the authorization holder, the one year construction period will be extended to the first anniversary of the issuance of the public

notice of the grant of the
application in any circumstance
where the release of such public
notice post-dates the grant by 30
days or more.

165. Section 22.529 Application Requirements for the
Paging and Radiotelephone Service - Subsection (a)(3) of this
rule requires paging and radiotelephone applicants to describe
the call sign of other facilities in the same area that are
ultimately controlled by the real party-in-interest to the
application. This section is too narrow. First, the phrase "in
the same general area" is vague. The Commission should return to
the specific 40 mile standard so that there is certainty added to
this process. Second, the requirement should extend not just to
other facilities that are in operation, but also to other pending
applications. Finally, the phrase "ultimately controlled by the
real party-in-interest to the application" requires the applicant
to make a complicated legal judgment. Disclosure should be
required with respect to any facility or pending application of
the applicant, a subsidiary of the applicant, an affiliate of the
applicant or a related party.

166. Section 22.531 Channels For One-Way Paging
Operation - This rule section describes the 35 MHz and 43 MHz
paging channels as "low VHF" channels. While this designation is
technically correct, these channels are commonly referred to in
the industry as "lowband" channels and this recognizable term
should be included in the rules. This change would enable the
Commission to delete the designation of the 152 MHz and 158 MHz